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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,544	09/22/2003	Matthew Bells	555255012571	9931

7590 06/08/2006

David B. Cochran, Esq.
JONES DAY
North Point, 901 Lakeside Ave
Cleveland, OH 44114

EXAMINER	
LAM, DUNG LE	

ART UNIT	PAPER NUMBER
2617	

DATE MAILED: 06/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/667,544	BELLS ET AL.	
	Examiner	Art Unit	
	Dung Lam	2617	

-- The MAILING DATE of this c mmunication appears on the cover sheet with th correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 29-38 is/are pending in the application.

4a) Of the above claim(s) 1-28 is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 29-38 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2617.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/15/06 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. Claims **29-30, 32-38** are rejected under 35 U.S.C. 103(a) as being anticipated by **Agrawal** (US Pub. No. 2002/0083127) in view of **Dorencosch** (US Pub No. 2002/0173308).

2. Regarding **claim 29**, **Agrawal** teaches a method of instant messaging between a plurality of messaging clients configured to transmit instant messages and presence data between each other [0025], the presence data including a first known state in

which a messaging client is receptive to communicating with other messaging clients (Abstract), comprising:

a. receiving communications including presence data from each of the messaging clients ([0024]) at a presence server (Note presence data is sent from the mobile station to the presence server via the application server which still broadly reads on the limitation, since the claim language does not excludes an intermediary between the mobile and presence server.) In addition, paragraph 24 also suggests that presence server can be situated at the application server.

b. the presence server determining the present state of the messaging clients using the presence data ([0050-0052]) and

c. storing information in an inherent state table entry for each of the messaging clients indicating the present state of the messaging client ([0052, 0053]), for each of the messaging clients that is in the first known state, the presence server periodically transmitting to each of the messaging clients present state data regarding the other messaging clients stored in the state table entries (presence notification is delivered to buddy [0026], presence data is updated at regular intervals [0025], and [0041, 0052]),

Agrawal further teaches that when a user does not access the messaging application for a predetermined period of time, the presence state is modified to another state "unknown" which is broadly interpreted to be the same as "after a predetermined amount of lack of communications from the client, assigns a new state to the client's state such as "present but inactive". ([0052], Note, the state "present and inactive" is the same as "unknown" because they both receives their state name as a result of lack of

communications between the server and the client after a predetermined period of time). **Agrawal** teaches the step of changing the name of the client's state upon a lack of communications but he does not explicitly teach that when the unknown state occurs then thereafter occurs a step of inhibiting periodic transmissions of the present state data regarding the other messaging clients until the messaging client transmits presence data to the presence server indicating that it has returned to the first known state. Nonetheless, Agrawal teaches that delivery of presence data should be canceled when there's a lack of user presence ([0051]) that suggests the idea of stopping data delivery when the server lacks user presence, which can be due to unavailability or unreachable state.

In an analogous art, **Dorencosch** teaches that if the IM proxy/presence server does not receive any communications from a messaging client for a predetermined period of time due to temporary unavailability or roaming, then the IM proxy/presence server thereafter inhibiting further periodic transmissions of data from other messaging clients until the messaging client transmits presence data to the presence server indicating that it has returned to the first known state ([4, 5, 20, 29]).

Therefore, it would have been obvious for one of ordinary skill in the art at the time of the invention to combine **Agrawal**'s teaching of modifying the presence status of a client when there's lack of communications along with Agrawal's suggestion of stopping data delivery and **Dorencosch**'s teaching of discarding the presence data or any kind of data delivery to the client when there's lack of client's communication

because this would obviously reduce the amount of wasteful radio resource usage in sending data to an unreachable client.

3. Regarding **claim 30**, Agrawal and Dorencosch teach all the limitations as in claim 1 (see claim 1 above). He further teaches a step in which each of the plurality of messaging clients, the presence server setting a communication timer to a predetermined value that, when expired, will put the messaging client into an unknown state if no communications are received at the presence server from the messaging client before the timer expires (After a predetermined period of time expires without user activity on the application or user response is received, a status becomes "Present and inactive" or "absent", para. 52).

4. Regarding **claim 32**, **Agrawal** and **Dorencosch** teach all the limitations as in 29 (see claim 29 above). **Agrawal** further teaches the step of: each of the plurality of messaging clients having a buddy list of other messaging clients with which the messaging client is interested in communicating with (para 26); when the messaging client is in a first known state in which it is receptive to receiving presence information, then obtaining presence information for each of the other messaging clients on the buddy list (para. 44 and 50).

5. Regarding **claim 33**, **Agrawal and Dorencosch** teach all the limitations as in 29 Agrawal further teaches the step of: transmitting instant messages between two of the messaging clients having presence information regarding one another (para. 25).

6. Regarding **claim 34**, **Agrawal and Dorencosch** teach all the method of claim 33 except for the messaging clients transmit instant messages between one another regardless of the presence state data stored at the presence server. However, it is known in the art of instant messaging for example ICQ or yahoo messaging applications to allow users to send messages to others regardless of their buddies' status. Therefore, it would have been obvious for one of ordinary skill in the art at the time of the invention to have this functionality built in the product to give the users the convenience of leaving a message and not having to sit around and wait till the other person to get online in order to communicate.

7. With regard to **claim 35**, **Agrawal and Dorencosch** teach the method of claim 29 but do not explicitly teach the step of detecting that the messaging client has transitioned from the unknown state to the first known state and in response thereto, transmitting presence information for the other messaging clients to the messaging client. However, the concept of transitioning from one state to another in known in instant messaging (e.g. on-line to idle, or idle to on-line). Therefore, it would have been obvious for one skill in the art at the time of the invention to have a transition state to indicate a more up-to-date status of the user. (para. 50 and 52).

8. Regarding **claim 36**, **Agrawal and Dorencosch** teach the method of claim 35, wherein the known state is the first known state in which the messaging client is receptive to communicate with the other messaging clients (para. 50).

9. With further regarding **claim 37**, **Agrawal and Dorencosch** teach the method of claim 36, **Agrawal** further comprising the step of detecting that the messaging client has transitioned from the unknown state to the first known state and in response thereto, transmitting presence information for the other messaging clients to the messaging client (see claim 35 and para. 50).

10. Regarding **claim 38**, **Agrawal and Dorencosch** teach the method of claim 29. Agrawal further comprising the steps of: as long as the messaging client is in the first known state, the presence server periodically transmitting presence information (presence updates at regular time intervals para. 25) from the other messaging clients to the messaging client; the presence server receiving an indication from the network that a periodic transmission of the presence information has not been successfully delivered to the messaging client (para. 52); and inhibiting the periodic transmission of presence information to the messaging client until the network indicates that the messaging client is once again able to receive transmissions (delivery should be canceled due to lack of user presence para. 51).

11. Claim **31** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Agrawal** (US Pub. No. 2002/0083127) and **Dorencosch** (US Pub No. 2002/0173308) in view of **Mathis** (US publication No. 2003/0083046).

12. Regarding **claim 31**, **Argrawal and Dor nc sch** teach all the limitations as in claim 29 (see claim 1 above). However, he fails to explicitly teach a step in which transmitting presence information directly from each of the plurality of messaging clients to the other messaging clients. In an analogous art, Mathis teaches that the presence updates are directly sent to other client devices rather than the server. Therefore, it would have been obvious for one of ordinary skill in the art at the time of the invention to combine Agrawal's teaching with Mathis to send the presence update directly to other clients to allow the presence to be updated faster instead of going through more intermediate points.

Response to Arguments

Applicant's arguments with respect to claims 29-38 filed on 5/15/06 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues that the present invention teaches that the communication between the server and the clients are direct and there's no polling involved unlike Agrawal teachings. However, the claim language is still broad enough that it does not requires direct communication nor does it exclude the polling process, therefore, Agrawal's reference still reads on the invention.

Citation of Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ozzie et al. (US Patent No. 6859821) discloses a typical instant messaging system in which a presence server notifies the users about others' presence data periodically.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dung Lam whose telephone number is (571) 272-6497. The examiner can normally be reached on M - F 9 - 6 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on (571) 272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DL

LESTER G. KINCAID
SUPERVISORY PRIMARY EXAMINER